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APPLICATION NO.	FILED DATE/01/98	HAS FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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005514 MM61/0512
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

JONES, E
EXAMINER

ART UNIT 351

PAPER NUMBER

05/12/99

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/145,982

Applicant(s)
Tomoharu Hase

Examiner
Emily Jones

Group Art Unit
2158



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-13 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 and 10-13 is/are rejected.

☒ Claim(s) 9 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☒ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: Japan 10-219906

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 7/21/1998. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

3. Claim 13 is objected to under 37 CFR 1.75© as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

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Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding Claim 1, it is unclear what is intended by the term "substantially."

7. Claim 10 recites the limitation "out of parallel." It is unclear what is indicated by this phrase.

8. Claim 13 provides for the use of the exposure apparatus, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. As well, Claim 13 does not define the term "device."

Claim 13 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

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Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kosugi et al, (U.S. 4,786,947). Kosugi discloses a projection exposure apparatus which discloses all of the claimed subject matter of claims 1-3 . Namely, Kosugi discloses the following (See figures 1 and 3):

- a. an illumination optical system 10,
- b. projection optical system 23,
- c. gas purging means (see page 3, line 61-page 4, line 33),
- d. humidity sensor 211.

11. Claims 1, 4-8 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujie et al, (U.S. 5,696,623). Fujie discloses a UV exposure apparatus which includes all of the claimed subject matter of claims 4-8 and 10-12. Namely, Fujie discloses the following (see figures 6A and B):

- a. an illumination optical system 20,

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- b. projection optical system 15,
- c. gas purging means (see page 8 lines 13-18),
- d. mutually communicating passage means (see figure 2C),

Wherein:

- e. the gas consists of one of nitrogen, air, or an inert gas, (see page 8, lines 39-52, and page 9, lines 49-56),
- f. optical components include a lens L1-10, and a support means 1,
- g. a straight line connecting adjacent passage means provided in the casing extends out of parallel to an optical axis of a lens, (see figure 2D),
- h. a path is defined for gas flowing from gas inlet P_{in} to gas outlet P_{out} (see figure 2C)
- i. light source is KrF or ArF laser beam (see page 1 lines 20-28).

Allowable Subject Matter

12. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Jones, whose telephone number is (703) 306-4511.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached at (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1721.



EDDIE C. LEE
PRIMARY EXAMINER

Emily Jones

May 6, 1999